

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
Washington 25, D. C.

Legislative and Public Affairs

January 7, 1957

Dear Mr. Brundage:

This is in reply to your letter dated November 28, 1956, requesting the views of the Department of Defense on a draft bill, "To amend section 305 of the Federal Communications Act of 1934, as amended, and for other purposes."

The proposed bill would amend section 305 of the Communications Act to permit the President in his discretion to authorize the construction and operation in the United States of "point to point radio stations" by official missions of foreign governments for the transmission of messages of such governments. The President would only grant such an authorization (1) if the foreign government has provided substantial reciprocal privileges to the United States to construct and operate radio stations within territories subject to their jurisdiction and (2) if the President determines the authorization is consistent with the national security of the United States. The bill would also amend section 3 of the Act by adding thereto a definition of "point to point radio stations".

The proposed amendments offer certain advantages in the fields of intelligence and operations, but these advantages are definitely outweighed by the adverse effect enactment of the proposal would have upon military communications. The Department of Defense is, therefore, opposed to the proposed legislation.

The establishment of additional point to point radio circuits, both in the United States and overseas, would impose requirements for additional frequency allocations in portions of the spectrum already saturated. Except for commercial carriers, the only United States users of the high frequency fixed bands are the Military Departments. Since the President cannot preempt commercial frequencies in peacetime, it follows that any significant use of frequencies by foreign radio stations in the United States would result in interference problems compounding those that currently prevail and could result in a reduction of military allocations decidedly detrimental to the capabilities of the Military Departments. Additionally, the establishment of a network of such stations in United States embassies in foreign countries would tend to generate an increased volume of traffic between such embassies and the United States. If the task of relaying these messages to the United States falls upon military relay stations, the increased burden would result in the delay of important military messages, caused by the increased volume of traffic and the higher precedence of State Department messages.

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If the proposed legislation is enacted, radio transmissions emanating from foreign embassies located in the United States could, for a critical period of time, operate to circumvent the control of electromagnetic radiations thus rendering this control, so necessary to the continental defense, ineffective.

It has been argued that the proposed amendments would merely place certain powers in the hands of the President and that no significant use of frequencies actually would be permitted. These conclusions fail to take into account several extremely important considerations:

a. The passage of permissive legislation and the consequent establishment of even one foreign radio station in the United States would inevitably lead to pressure by other foreign governments for equivalent treatment. The impact on foreign relations of an apparently unwarranted denial of the rights to a nation is worthy of study by the Department of State.

b. The Military Departments operate radio stations in a number of foreign countries, such as Italy, Japan, England, France and Ethiopia. The extension of reciprocal rights to these countries is effectively avoided under the Communications Act of 1934 in its present form. If the amendments proposed by the State Department are adopted, there will be no practical basis on which to deny reciprocal privileges to these countries. Such action would seriously jeopardize United States frequency usage with no compensating advantage. Furthermore, in any future negotiations for United States military communications base rights in foreign countries, reciprocal rights for the foreign country could not be avoided.

Since no practical means have been shown whereby the disadvantages outlined above can positively be overcome, the Department of Defense takes the position that the proposed amendments to the Communications Act of 1934 should not be adopted.

Sincerely yours,

Richard A. Buddeke
Director, Legislative Programs

Honorable Percival F. Brundage
Director
Bureau of the Budget

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Staff Study: Establishment under Regularized Basis of a
Diplomatic Wireless Service in the United
States Embassies and Missions Abroad.

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Conclusions:

It is concluded:

(a) That it would be in the national interest to amend the Communications Act to permit the granting of reciprocal privileges, to selected foreign countries, for the operation of radio transmitters in their missions in the United States when in the opinion of the President such action is warranted.

(b) That the President in concluding reciprocal arrangements with foreign countries for the operation of radio transmitters should condition such agreement upon the stipulation that the transmitter and antenna must be located within or on the mission compound.

(c) That foreign countries party to any such agreement should supply their own frequencies which, prior to activation, shall be cleared with the Department and the FCC to preclude the possibility of interference with United States communications services.

(d) That the power of the foreign mission transmitter shall be limited in the order of 100 watts.

Recommendation

That the President request the Congress to amend Section 305 of the Communications Act of 1934, as amended, to permit him, in his discretion, to authorize selected foreign governments to operate, as a reciprocal privilege, radio transmitters in their missions in the United States for diplomatic communications.

Specific language for the proposed amendment follows:

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From M 20717 - Revised Staff Study

13 Mar '56

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Amend Section 303 by adding a new section "d" to read as follows:

"(d) Notwithstanding the provisions of Sections 301 and 303 of this Act notwithstanding, the President may authorize the construction and operation in the United States, under such terms and conditions as he may prescribe, of point to point radio stations by official missions of foreign governments for the transmission of messages of such government where he determines that the authorization would be consistent with the national security of the United States and where such foreign governments have provided substantial reciprocal privileges to the United States to construct and operate radio stations within territories subject to their jurisdiction. The authorization of such stations, and the renewal, modification, suspension, revocation or other termination of such authority shall be in accordance with such procedures as may be established by the President and shall not be subject to the other provisions of this Act or of the Administrative Procedure Act."

Amend Section 3 by adding a new subsection "hh" to read as follows:

"(hh) 'Point to point radio station' means a station providing radio communications service between specified fixed points."